

## **CHAPTER 10 OFFENSES<sup>1</sup>**

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#### **Section 10-1-1 Definitions**

In this Article unless the context requires otherwise:

- A. "Abandoned vehicle" means any vehicle which is without the required current license plates or tabs, inoperable, stripped, unclaimed, scrapped, junked or discarded. This term shall also mean a vehicle being repaired when such repairs take seventy-two hours or more.
- B. "Abandoned vehicle parts" means any vehicle part which is inoperable, unclaimed, scrapped, junked, discarded or not used in or on any vehicle within any seven day period.
- C. "Classic car" means a vehicle licensed pursuant to Title 28, Chapter 3, Article 2, Arizona Revised Statutes as a horseless carriage, classic car or historic vehicle.
- D. "Construction materials" means asphalt, concrete, plaster, tile, rocks, bricks, sand, dirt, lumber, blocks or any other material commonly used in construction or landscaping material.

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- E. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action
- F. "Guardian" means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by an authorized agency or court; or at least 21 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- G. "Insufficient control" means failure to exercise reasonable care and diligence in the supervision of the juvenile.
- H. "Litter" means any rubbish, trash, weeds, filth or debris which constitute a hazard to public health and safety and shall include all putrescible and nonputrescible solid wastes including garbage, trash, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial waste; any deposit, accumulation, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish or other unsightly or unsanitary matter of any kind whatsoever; and any growth of weeds, brush, grass or other vegetable growth to an unreasonable height or in unreasonable amount. Any debris created during any construction shall be considered litter for purposes of this section, as will any handbills, posters or other similar advertising material posted within the city and not removed within seventy-two hours after the time of event.
- I. "Minor" means any person under eighteen years of age.
- J. "Nuisance" shall mean anything which is injurious to health, or is indecent, or offensive to the senses of a reasonable person, or an obstruction to the free use of property, so as to interfere with the comfortable and reasonable enjoyment of life or property by an entire community or neighborhood, or by any person, or which unlawfully obstructs the free passage or use, in the customary manner, of any public park, square, alley, sidewalk, street or highway.
- K. "Parent" means a person who is a natural parent, adoptive parent or step-parent of another person.
- L. "Private property" means land owned by any person other than the United States, the state, the county or the city.
- M. "Prostitution" shall mean the act of performing a sexual activity for hire by a male or female person.
- N. "Sexual Activity" shall mean vaginal or anal intercourse, fellatio, cunnilingus, anilingus, masturbation, sodomy or bestiality.

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- O. "Special Development property" shall mean property specifically identified as such by the city council by resolution and identified as such on a map maintained by the city as a public document.
- P. "Special Rural property" shall mean property specifically identified as such by the city council by resolution and identified as such on a map maintained as a public document.
- Q. "Unsheltered" means anything located outside a garage in such a manner as to be visible to a person standing upon any public street, alley, sidewalk or right-of-way or to any person standing at ground level upon any adjoining piece of property.
- R. "Vehicle" means a self-propelled device in, upon or by which any person or property is or may be transported or drawn upon a public highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- S. "Vehicle parts" means any parts, components or accessories of a vehicle.

### **Section 10-1-2      Abandoned Vehicles**

#### **A.      Unsheltered Storage Prohibited**

The unsheltered storage of any abandoned vehicle or abandoned vehicle parts for a period of fifteen days or more on any private property within the corporate limits of this city is hereby declared to be a nuisance and dangerous to the public safety.

#### **B.      Exceptions**

- 1. The provisions of paragraph A of this section shall not apply to the storage of abandoned vehicles or abandoned vehicle parts on the premises of a business enterprise operating in a lawful place and manner when necessary to the operation of such business enterprise or to a storage place or depository for vehicles or vehicle parts maintained in a lawful place and manner. The exceptions contained in this paragraph shall be an affirmative defense to be pled and proved by the defendant in any judicial proceedings under this section.
- 2. The provisions in paragraph A of this section shall not apply to classic cars while such are maintained or stored on the owner's private property.
- 3. The provisions of paragraph A of this section shall not apply in any areas specifically identified by the city council as either "Special Rural" or "Special Development" as specially designated for exemption from this subsection or other sections of this Chapter 10. Three copies of a map

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of all such areas identified by the council as either Special Rural or Special Development shall be maintained by the city clerk as a public record, and all such maps are hereby incorporated by reference as if set forth fully herein.

### C. Removal

1. The owner, tenant, lessee or other occupant of any private property within the corporate limits of the city upon which storage is prohibited by paragraph A of this section and also the owner of such abandoned vehicles or abandoned vehicle parts involved in such storage shall jointly and severally abate the nuisance.
2. Any person who fails, neglects or refuses to abate such nuisance shall be notified in writing by certified or registered mail or by personal service by the city manager or his representative to abate the nuisance within fifteen days from the date appearing on such written notice.
3. When any person to whom notice as provided in this subsection has been mailed fails, neglects or refuses for more than fifteen days from the date appearing on the notice to abate the nuisance, the city manager or his representative is hereby authorized to remove the abandoned vehicle or abandoned vehicle parts from the premises and dispose of same according to law.
4. The owner, tenant, lessee or other occupant of any private property, from which the city has removed an abandoned vehicle or abandoned vehicle parts pursuant to this section, shall be liable for all costs incurred in removing and disposing said items from the property.

### D. Violations and Penalties.

1. Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

2. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this section nor reduce the liability established by paragraph C(4) hereof.

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### **Section 10-1-3                      Dangerous Constructions**

#### **A.        Maintaining Dangerous Construction Unlawful.**

It is unlawful for any person to maintain or allow any signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

#### **B.        Violations and Penalties.**

Any person who violates any provision of this section shall be guilty of a class one (1) misdemeanor, punishable as set forth in this code and state law.

### **Section 10-1-4                      Defacing Public and Private Property**

#### **A.        Defacing Property Unlawful.**

1.            It is unlawful for any person to deface any public property, including but not limited to writing or drawing thereon, or painting or pasting thereon, or to scratch, mark, disfigure or defile such property or the floors or walls thereof. A complaint may be sworn and filed against any person in violation of this section by any police officer or by any other public official of the city who personally witnesses the incident.
2.            It is unlawful for any person to deface any private property by writing or drawing thereon or by painting or pasting thereon, or attaching thereto any handbill or advertisement or other drawing or to scratch, mark, disfigure or defile such property or the floor or walls thereof without the express permission of the owner of such property. In the event of a violation of this subsection, a police officer, or the owner or the person entitled to possession of the property, may file with the Maricopa municipal court a complaint against any individual who violates this section of the code.

#### **B.        Authorization of Reward Program**

The council is specifically authorized to offer a reasonable reward for the apprehension of parties who might be guilty of a violation of this section and to solicit reward funds and other cooperation from the citizens and business community of the city.

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### C. Violations and Penalties

1. Any person who violates any provision of this section shall be guilty of a class one (1) misdemeanor, punishable as set forth in this code and state law.
2. In the event of a conviction for a first offense under this section, the minimum fine shall be one hundred dollars, with a maximum fine of three hundred dollars, exclusive of and along with such surcharges, fees, assessments or other charges as may be imposed by this code or state law. The fine for a second conviction under this section shall be a minimum fine of three hundred dollars with a maximum fine of one thousand dollars, exclusive of such charges set forth in this paragraph. In the event the defendant charged is a juvenile, his or her parents or other persons with whom he or she resides or who have custody over such juvenile shall be likewise cited and shall also be subject to the fines provided herein.
3. In addition to the fines provided in subsection 1, the city magistrate or juvenile court judge or hearing officer may impose other appropriate sentencing, including the requiring of public service time within the city limits, cleaning up graffiti, picking up waste and other papers and providing for such other community service as the court deems appropriate.

### **Section 10-1-5                      Excavations to be Covered**

#### A. Failure to Protect Excavations Unlawful

1. It is unlawful for any person to make any excavation or dig any hole, drain or ditch in any highway or thoroughfare in the city without providing a sufficient light at night and a temporary fence or suitable obstruction around such excavation to protect the public.
2. It is unlawful for any person to maintain a well, cellar, pit or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering or protection.

#### B. Violations and Penalties

Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

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For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

### **Section 10-1-6                      Explosives**

#### **A.        Use of explosives prohibited**

It is unlawful for any person within the limits of the city to blast or use powder, fireworks or other explosives without a written permit from the city or the fire chief, and then only upon the terms and conditions set forth therein.

#### **B.        Violations and Penalties**

1.        Any person who violates any provision of this section shall be guilty of a class one (1) misdemeanor, punishable as set forth in this code and state law.
2.        A complaint may be sworn and filed against any person in violation of this section by any police officer, the fire chief, or any other public official of the city who personally witnesses the violation.

### **Section 10-1-7                      Fences - Barbed Wire and Electric**

#### **A.        Use and Maintenance of Certain Fences Restricted**

Except as set forth in this section or unless otherwise specifically permitted by zoning, it is unlawful for any person to erect or maintain within the city any electric fence or any fence constructed in whole or in part of barbed, razor or similar wire. Any such fence is hereby declared a public nuisance and subject to abatement by order of the city court.

#### **B.        Exceptions**

Notwithstanding the provisions of paragraph A of this section:

1.        Property designated as "Special Rural property" by the city council for the purposes of this Chapter may continue to erect or maintain any existing fences, either electric or barbed wire, unless specifically prohibited by the provisions of the zoning code.
2.        Property designated by the city council as "Special Development property" for the purposes of this Chapter may continue to erect or maintain any existing barbed wire, but not electric fence, unless specifically prohibited by the provisions of the zoning code.

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3. Unless specifically prohibited by the provisions of the zoning code, security barbed wire may be used as the top of a fence in any commercial or industrial facility or property, provided, however, that such barbed wire must be located no less than six (6) feet from ground level at any point.

### C. Map of Special Districts as Public Record

Three copies of a map of all areas identified by the council as either Special Rural property or Special Development property for purposes of this Chapter shall be maintained by the city clerk as a public record, and all such maps are hereby incorporated by reference as if set forth fully herein.

### D. Violations and Penalties

Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

## Section 10-1-8 Curfew Hours for Minor

### A. Offenses

1. It is unlawful for any minor under the age of sixteen years to be in, about or upon any place in the city away from the property where the youth resides between the hours of 10:00 p.m. and 5:00 a.m. of the following day.
2. It is unlawful for any minor sixteen years of age or older and under the age of eighteen years, to be in, about or upon any place in the city away from the property where the child resides between the hours of 12:00 a.m. and 5:00 a.m.
3. It is unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control, allow a minor to violate paragraphs 1 or 2 of this subsection.
4. It is unlawful for a parent, guardian or other person having the care, custody or supervision of the minor to fail or refuse to take custody of the minor after such demand is made upon him by a law enforcement officer who arrests the minor for violation of paragraphs 1 or 2 of this subsection.

### B. Defenses/Exceptions.



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It is a defense to prosecution under subsection A, including paragraph 3 of subsection A, of this section that the minor was:

1. Accompanied by the minor's parent or guardian.
2. With prior permission of the parent or guardian, in a motor vehicle involved in interstate travel.
3. With prior permission of the parent or guardian, in an employment activity or going to or returning home from an employment activity without any detour or stop by the most direct route.
4. Involved in an emergency.
5. With prior permission of the parent or guardian, was engaged in reasonable, legitimate and specific business and/or activity. Examples include, but are not limited to, a juvenile, with prior permission of the parent or guardian, attending an official school, religious or other recreational activity supervised by adults who take responsibility for the minor, or going to or returning home from an official school, religious or other recreational activity supervised by adults who take responsibility for the minor.
6. With prior permission of the parent or guardian, engaged in a reasonable and legitimate exercise of First Amendment rights protected by the United States Constitution.
7. Married and sixteen years of age or over, or in the military.
8. On the sidewalk abutting their residence or on the next door neighbor's property with the consent of the neighbor.

### C. Enforcement

1. Before taking any enforcement action under this section, a police officer shall attempt to ascertain the apparent offender's age and reason for being in the place. The officer may issue a citation or make an arrest under this section when the officer reasonably believes that an offense has occurred and that, based upon the circumstances, the minor's responses and minor's conduct, no defense or exception as provided in subsection B of this section is probably present.
2. In addition to any other powers he or she may have, any law enforcement officer who arrests a minor for violating any of the provisions of paragraphs 1 or 2 of subsection A of this section is also hereby empowered to demand of the parent, guardian or other person having the care, custody or supervision of the minor that such parent, guardian or other person come and take the minor into custody. The law enforcement officer is also empowered to take the minor to a designated location where arrangements can be made

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for a parent, guardian or other appropriate party to take the minor into custody. Should there be a failure of the parent, guardian or other person to take custody of such minor, the officer may then be empowered to take the minor home.

### D. Violations and Penalties

1. A person convicted of a violation of any provision of this section shall be guilty of a class one (1) misdemeanor, punishable as set forth in this code and state law.
2. Each violation of the provisions of paragraph A of this section shall constitute a separate offense.

## Section 10-1-9 Noise

### A. Unreasonable Noise Prohibited

1. It is hereby declared to be a public nuisance, and it is unlawful for any person, firm or corporation owning or operating or in control of any restaurant, hotel, dance hall, show, store or any place of public amusement, entertainment or accommodation, to play or permit to be played, without first obtaining the written permission from the city manager or city council, any music or musical instrument or instruments whether played by individuals, orchestra, radio, phonograph, music box or other mechanical device or means in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with or annoy the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.
2. It is unlawful to play, operate, or use any device known as a sound truck, loud speaker or sound amplifier, radio or phonograph with loud speaker or sound amplifier or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the city manager or city council to operate any such vehicle so equipped.
3. It shall be unlawful for any person to make or continue, or cause or permit to be made or continued, any excessive, unnecessary or offensive noise which disturbs the peace or quiet of any adjoining property or neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area, including, but not limited to, the keeping of any animals that disturb the peace by the emission of unreasonable loud noises at any time of the day or night
4. It shall be unlawful for any person within any residential area of the city to repair, rebuild or test any motor vehicle between the hours of 8:00 p.m. of one day and 5:00 a.m. of the next day in such a manner as to create an excessive, unnecessary or

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offensive noise that a reasonable person of normal sensitivity residing in the area is caused discomfort or annoyance. Notwithstanding the foregoing, construction or repair work shall not begin prior to 7:00 a.m. and must stop by 7:00 p.m. on any Saturday, Sunday or holiday, unless such other times are allowed by written authorization as set forth in paragraph B(3).

5. It shall be unlawful for any person, between the hours of 8:00 p.m. and 5:00 a.m. the following day to operate or maintain equipment or perform any outside construction or repair work on buildings, structures or projects, or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist or any other construction type device within one thousand feet of a completed residential structure. This prohibition shall further extend to all construction-related activity, including set-up work and travel to and from the construction site, and under no circumstance shall construction travel which passes within one thousand feet of a completed residential structure occur outside the times set forth herein, unless such other times are allowed pursuant to paragraph (B)(3). On Saturday, Sunday or any holiday recognized by the city, such construction or repair work shall not begin prior to 7:00 a.m. and must stop by 7:00 p.m., unless such other times are allowed by written authorization as set forth in paragraph B(3).<sup>1</sup>

### B. Exceptions

1. [Repealed by Ordinance 05-09]<sup>2</sup>

2. Construction and repair work otherwise may be conducted at different times and at higher noise levels than otherwise permitted, if upon written application, a permit is obtained beforehand from the city. The permit shall be kept on the work site and shown to city officials or the city law enforcement agent on request. In granting such permit, the city manager or his designee shall consider if construction noise in the vicinity of the proposed work site would be less objectionable at night than during the daytime because of different population levels or different neighboring activities; if obstruction and interference with traffic, particularly on streets of major importance, would be less objectionable at night than during the daytime; if the kind of work to be performed emits noises at such a low level as to not cause significant disturbance in the vicinity of the work site; if the neighborhood of the proposed work site is of such a character wherein sleep could be disturbed; if great economic hardship would occur if the work was spread over a longer time; if the work will abate or prevent hazards to life or property; if proposed early morning or night work is in the general public interest; and the city manager shall prescribe in the permit such allowable conditions, working times, types of construction equipment to be used, and permissible noise emissions as he deems to be required in the public interest.

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<sup>1</sup> AMENDED Section 10-1-9(A)(5) Ordinance 05-09 Adopted 05/17/05

<sup>2</sup> AMENDED Section 10-1-9(B)(1) Ordinance 05-09 Adopted 05/17/05

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3. Other work, activities or actions that otherwise would violate paragraph A of this section may be conducted at different times and at higher noise levels than otherwise permitted, if upon written application, a permit is obtained beforehand from the city. The permit shall be kept on the site and shown to city officials or the city law enforcement agent on request and the city manager or council may prescribe in the permit such allowable conditions, times, restrictions and permissible noise emissions as he deems to be required in the public interest.

4. The following additional uses and activities shall be exempt from the provisions of this article:

- (a) Noises from the normal operation of railroad trains;
- (b) Noise created by any city vehicle, equipment or facility while being operated for official use;
- (c) Operation of agricultural equipment in connection with farming operations;
- (d) Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations or air traffic control instructions issued pursuant to or within duly adopted federal air regulations, together with any noise created by aircraft operated under, or pursuant to, declaration of an emergency under federal air regulations.
- (e) Noises resulting from emergency work, which for purposes of this Article, shall mean work performed to prevent or alleviate physical trauma or property damage threatened or caused by an emergency which has or may result in a disruption of service and which is necessary to protect the health, safety and welfare of persons or property.

### C. Violations and Penalties

Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

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### **Section 10-1-10                      Obstruction of View**

#### **A.        Obstruction of View Unlawful**

It is unlawful for any person to maintain or allow any tree, hedge, billboard or other obstruction which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

#### **B.        Violation and Penalties**

Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

### **Section 10-1-11                      Offensive Premises**

#### **A.        Maintenance of Offensive Premises Unlawful**

It is unlawful for any person to suffer, or permit any premises belonging to or occupied by him or her, or any cellar, privy, vault, pool, sewer or private drain therein to become nauseous, foul or offensive to the senses or prejudicial to the public health or comfort.

#### **B.        Violation and Penalties**

Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

### **Section 10-1-12                      Nuisances**

#### **A.        Nuisances Prohibited**

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1. It is unlawful for any person to maintain or commit a Nuisance, or to willfully omit to perform any legal duty relating to the removal of a Nuisance, including but not limited to an order of abatement by order of a court of competent jurisdiction.

2. No person shall erect, maintain, use, place, deposit, cause, allow, leave or permit to be or remain in or upon any private lot, building, structure or premises, or in or upon any public right-of-way, street, avenue, alley, park, parkway or other public or private place any condition, thing or act, to the prejudice, danger or annoyance of others, including but not limited to, the following:

- (a) Throwing, depositing, dumping or discharging into or about any ditch within the city anything injurious to the public health or offensive to the senses.
- (b) No owner, lessee, tenant or other person who keeps or controls any animal shall cause, allow or permit any manure or liquid discharge of such animal to unreasonably accumulate on private property or to be unloaded, left or dumped in or upon any ditch, street, alley, sidewalk, place, vacant lot or public property within the city.
- (c) Storage of construction materials for a period in excess of fourteen days in whole, broken or discarded condition in unsheltered areas of a yard and in which insects may breed or multiply or which provides harborage for rodents or which constitutes a hazard to the public health and safety
- (d) No person shall park, or permit to be parked, any motor vehicle for the purpose of sale upon any lot or area within the city.
- (e) Storage of bottles, glass, cans, pieces of scrap metal, metal articles, paper or other abandoned material or items in unsheltered areas of private property, unless the same is kept in appropriate bins or receptacles approved by the city manager, county health officer or this code or any other ordinance of the city.
- (f) No person shall leave, place or park any abandoned vehicle upon any city right-of-way, street, alley, parking lot or other city property.
- (g) No person shall place, deposit or leave in or upon any city right-of-way, street, alley, gutter, park or other city building or property any bottles, glass, cans, graffiti, pieces of scrap metal, metal articles, paper or other abandoned material or items, except in proper containers for collection.
- (h) No person shall leave or permit to remain exposed outside on any property, or within any unoccupied or abandoned building, dwelling or

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other structure or in any place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container that has an airtight door or lid, snaplock or other locking device that may not be readily released from the inside, unless such person has first removed such door, lid, snaplock or other locking device from such ice box, refrigerator or container.

- (i) No person shall allow or permit any dangerous, deteriorated, abandoned, partially destroyed or unfinished buildings, addition, appendage, or other structure, or any building in violation of the provisions of the Building Code, or any vacated or abandoned building not securely closed by materials compatible with the color of the building within the city limits.

### B. Exemptions

- 1. The provisions of paragraph A(2)(c) of this section shall not apply to
  - (a) any construction material when a valid building permit exists for the property on which the construction material is located and the construction material is intended to be incorporated in the project for which the permit is issued
  - (b) construction materials stored on property designated as Special Rural or Special Development as specially designated for exemption from this subsection or other sections of this chapter 10.

Notwithstanding the exemption above, it shall nonetheless be unlawful to store any such construction materials on any property, including that designated as Special Rural or Special Development, if the storage presents a demonstrated hazard or risk of hazard to the public health and safety.

- 2. The provisions of paragraph A(2)(d) of this section shall not apply to:
  - (a) The display of one motor vehicle for sale when the motor vehicle is either owned by the resident of the property or is placed there with the express permission of the resident of the property, and is not in either case being sold in connection with an automobile sales business; or
  - (b) Property appropriately zoned by the zoning code which allows such activity.
- 3. The provisions of paragraph A(2)(e) of this section shall not apply to a properly licensed business, acting in accordance with the Maricopa Zoning Code, and conducted as a recycling business, auto-recycling center or other similar operation.

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Notwithstanding this exemption, it shall nonetheless be unlawful to store any materials in violation of paragraph A(2)(e) on any property if the storage presents a demonstrated hazard or risk of hazard to the public health and safety.

### C. Violators Liable for Costs

1. If the owner or occupant of any property within the city does not remove or abate such public nuisance from such property within a reasonable period after the citation has been served by the city, a reasonable period being a maximum of fourteen days or less if the interests of public safety and health so necessitate, the city may, at the expense of the owner or occupant, remove or cause the removal thereof.
2. Any person who places, deposits, leaves or causes a public nuisance in or upon any city right-of-way, street, alley, park or other city building or property, shall be liable for all costs incurred by the city to remove or cleanup such nuisance.

### D. Assessment of Costs

When the city has effected removal and/or disposal pursuant to this section, the actual cost of such removal shall become an assessment upon the building or property from which such public nuisance is removed, and the record owner of such property shall be liable for the payment of same. If the actual cost of such removal has not been paid within fourteen days of billing by the city by ordinary mail, such assessment shall be recorded in the office of the county recorder, and from the date of its recording, it shall be a lien on such building or property until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record.

### E. Subsequent Assessments

A prior assessment against the building or property shall not be a bar to a subsequent assessment for such purposes, and any number of liens on the same property may be enforced in the same action.

### F. Right of Record Owner to Appeal

The owner of record of such building or property shall have the right to appeal such citation to the city council within the time allowed in such citation to remedy the alleged violation. The decision of the city council on such appeal shall be final.

### G. Map of Special Districts as Public Record

Three copies of a map of all areas identified by the city council as either Special Rural property or Special Development property for purposes of this chapter shall be



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maintained by the city clerk as a public record, and all such maps are hereby incorporated by reference as if set forth fully herein.

### H. Violations

1. A violation of any of the provisions of this section shall be considered to be a public nuisance and may be abated by order of the municipal court. Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

2. Any police officer, code enforcement officer or designated sanitation official who observes a violation of any of the provisions of this section is empowered to issue a citation to the alleged violator.

### **Section 10-1-13                      Searchlights**

#### A. Use of Certain Lighting Prohibited

It is unlawful for any person to operate within the city any incandescent or arc-type searchlight, beacon light or similar lighting device designed to and capable of projecting a beam of light into the sky unless allowed by chapter 16 of the code or other zoning ordinance applicable to the city, or permission is obtained from the council. The provisions of this section shall not apply to emergency searchlights or beacons operated pursuant to public authority.

#### B. Violation and Penalties

Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

### **Section 10-1-14                      Signs and Banners**

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### A. Posting of Signs and Banners Restricted

It is unlawful for any person to place any banner or sign upon any streetlight pole, traffic signal pole or utility pole within the city without first obtaining an permit from the city manager or, if the pole is privately owned, by the owner of the pole.

### B. Violation and Penalties

Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

## **Section 10-1-15                      Water - Flow Upon Streets Prohibited**

### A. Unlawful Acts

1. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of water in such quantity as to cause flooding, or to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic or to cause damage to the public streets of the city.

2. It is unlawful for any person to willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, to impede vehicular or pedestrian traffic, to create a hazardous condition to such traffic or to cause damage to the public streets of the city through the failure or neglect to properly operate or maintain any irrigation structure, delivery ditch or waste ditch in which said person has a vested right or interest or through the willful or negligent failure of said person to accept irrigation water after it has been ordered by him.

### B. Violation and Penalties

Any person who violates any provision of this section shall, upon their first conviction (whether by admission, payment of the fine, by default or by judgment after hearing), be considered guilty of a petty offense. A person who commits a violation of this chapter after previously having been found responsible of a violation of this chapter within a twenty-four month period, shall be deemed a habitual offender and be guilty of a class one (1) misdemeanor, all punishable as set forth in this code and state law.

For purposes of calculating the twenty-four month period under this section, the dates of the commission of the offenses are the determining factor.

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### **Section 10-1-16                    Littering**

#### **A.     Deposit of Litter Unlawful**

It is unlawful for any person to throw or deposit any litter in or upon any street, alley, public grounds, school grounds, church grounds or property of other persons.

#### **B.     Violation and Penalties**

A person convicted of a violation of any provision of this section shall be guilty of a class one (1) misdemeanor, punishable as set forth in this code and state law.

### **Section 10-1-17                    Prostitution**

#### **A.     Certain Acts Unlawful**

1.     It is unlawful to entice, offer, agree, attempt to commit or commit an act of prostitution.
2.     It is unlawful to solicit or hire another person to commit an act of prostitution.
3.     It is unlawful to aid or abet the commission of any of the acts prohibited by this section.

#### **B.     Violations and Penalties**

A person convicted of a violation of any provision of this section shall be guilty of a class one (1) misdemeanor, punishable as set forth in this code and state law.

### **Section 10-1-18                    Weapons**

#### **A.     Carrying and Discharge of Weapons Restricted**

1.     Except as permitted in paragraph B of this section, it is unlawful for any person within the limits of the city to fire or discharge any firearm, B-B gun, air gun, pellet gun, dart gun, slingshot, gas-operated gun or other similar gun or instrument.
2.     Except as permitted in paragraph B of this section, it is unlawful for any person within the limits of the city to possess, carry or display a weapon in any public building, facility, city park or similar structure or area.

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3. Except as permitted in paragraph B of this section, any person, upon entering any public place or attending a public event, may be required by the operator of the establishment or the sponsor of the event to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event.

4. It is unlawful for any person to sell or give to a minor under the age of eighteen years, without written consent of the minor's parent or legal guardian, a weapon, ammunition or toy pistol by which dangerous and explosive substances may be discharged.

### B. Exceptions

1. Paragraph A(1) of this section shall not apply in the following circumstances:

(a) As allowed pursuant to the provisions of Title 13, Chapter 4 of the Arizona Revised Statutes;

(b) On a properly supervised range;

(c) By special permit of the city or chief of police of the city for the use of such gun or instrument for a valid and proper purpose, and for use in a manner not likely to harm any person, animal or property;

(d) For hunting or animal control purposes on property designated as Special Rural by the city council as specially designated for exemption from this subsection or other sections of this Chapter 10; provided that all such activity complies in all respects with all other rules, regulations, or requirements set forth by this code, Arizona State Statute, Federal Law, Agencies of the Federal Government, the Arizona Department of Game and Fish or other entity having authority or control.

2. The provisions of paragraphs A(2) and A(3) of this section shall not apply to a duly licensed peace officer or any person summoned by any peace officer to assist and while actually assisting in the performance of official duties.

### C. Map of Special District as Public Record

Three copies of a map of all such areas identified by the council as Special Rural shall be maintained by the city clerk as a public record, and all such maps are hereby incorporated by reference as if set forth fully herein.

### D. Violations and Penalties

A person convicted of a violation of any provision of this section shall be guilty of a class one (1) misdemeanor, punishable as set forth in this code and state law.

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### **ARTICLE 10-2 GRAFFITI**

- 10-2-1 Definitions
- 10-2-2 Prohibition
- 10-2-3 Removal of Graffiti by the City

#### **Section 10-2-1 Definitions**

In this Article, unless the context otherwise requires:

1. The term “graffiti” includes any inscription, word, figure or design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to or on any surface, regardless of the nature of the material of that structural component, to the extent that the same was not authorized in advance by the owner thereof or, despite advanced authorization, is otherwise deemed by the council to be filth and debris and vandalism.
2. The term “graffiti instruments” includes any tool, instrument, article, substance, solution or other compound designed or commonly used to make graffiti under circumstances evidencing an intent to place graffiti upon such property.

#### **Section 10-2-2 Prohibition**

##### **A. Graffiti Prohibited**

1. No person shall make graffiti of any type on any building, public or private, or any other property real or personal, owned by any person, corporation, association, partnership or any public agency or instrumentality without the expressed written permission of the owner, manager, tenant or other person responsible for said property.
2. No person shall possess graffiti instruments in such a manner as to give rise to an inference of intent to make graffiti; and, no person shall possess a spray paint can in any public place including any building, park, facility or alley or on any private property where that person has no right to be unless possession is authorized or required as a part of a legitimate business or activity.

##### **B. Violation and Penalties**

Any person who violates any provision of this article shall be guilty of a class one (1) misdemeanor punishable as set forth in this code and state law.

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### **Section 10-2-3                      Removal of Graffiti by the City**

The city, having determined that graffiti constitutes both vandalism and filth and debris, does hereby compel the owner, lessee or occupant of buildings, grounds or lots to remove graffiti on the basis that its presence constitutes a hazard to public health and safety. The removal of the graffiti shall be accomplished according to the following provisions.

- A.        Upon determining that graffiti has been applied to any building or structure whether public or private within the city limits, the city shall cause a written notice to be sent to the owner, occupant or lessee. The written notice shall set forth the condition observed and shall give thirty days for compliance by removal of the graffiti from the building or structure.
- B.        Notice shall be by either personal service or certified or registered mail and if the building or premises is not occupied by the owner then notice shall be provided to the owner as indicated on the Pinal County tax rolls.
- C.        If after thirty days from actual notice the owner or occupant or lessee has failed to remove the graffiti, the city may cause the graffiti to be removed and assess the costs of removal against the owner of the real property upon which the building or structure is located.
- D.        Notice of intent to go upon private property and to remove or abate the graffiti shall be given in the same manner as notice set forth in subsection A of this section. The notice of intent to go upon private property and remove graffiti shall also include the city's estimate as to the cost for the removal or abatement of the graffiti and that the actual amount of the cost shall be certified by the city and recorded in the office of the county recorder as a lien against the real property. Any owner, occupant or lessee who receives written notice to remove or abate graffiti or written notice that the city intends to enter upon private property to remove or abate the graffiti may appeal to the city council for a hearing on either the notice or the amount of the assessment. The appeal must be in writing and acts as a stay of all proceedings until such time as the council schedules a time, place and date certain for the hearing.
- E.        A prior assessment or lien for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes and any number of liens on the same lot or tract of land may be enforced in the same action.
- F.        The lien upon real property authorized herein shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages, liens and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of the Article shall be made upon judgment of foreclosure and order of sale. The city reserves the right to bring an action to enforce the lien in superior court in the county in which the property is located at any time after the recording of the assessment, but failure to enforce the lien by legal action shall not affect its validity.

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- G. The recorded assessment and lien shall be prima facie evidence of the truth of all of the matters recited therein and of the regularity of all proceedings prior to the recording thereof.

### **ARTICLE 10-3 STORAGE AND DISPLAY OF TOBACCO PRODUCTS**

- 10-3-1 Definitions
- 10-3-2 Penalties

#### **Section 10-3-1 Definitions**

For the purposes of this Article, the following words and terms shall have the meaning ascribed thereto:

1. "Person" means the state, the county, a political subdivision of the state, other governmental entities, a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. Person also includes a trustee, receiver, an assignee or similar representative.
2. "Tobacco product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.

#### **Section 10-3-2 Store and Display of Tobacco Products**

##### **A. Restrictions on Storage and Display**

No person who owns, conducts, operates or manages a business where tobacco products are sold, nor any person who sells or offers for sale tobacco products, shall store or display, or cause to be stored or displayed, such tobacco products in an area or manner that is accessible to the public without employee assistance.

##### **B. Exemptions**

A person is exempt from the requirements of this section if both:

1. The business where tobacco products are sold prohibits entry of individuals under the age of eighteen at all times; and

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2. Photographic identification is required from any individual who appears to be twenty-six years of age or younger prior to entering the business where tobacco products are sold.

### C. Violations and Penalties

Violations of this section are considered a civil offense, subject to a fine of one hundred dollars for the first offense and five hundred dollars for each subsequent offense.

### **Section 10-4 Alarm System<sup>2</sup>**

Pursuant to Arizona Revised Statutes Section 9-802, the City of Maricopa has adopted by reference, as if fully set forth herein, the provisions of the "ALARM SYSTEM CODE OF THE CITY OF MARICOPA." Three copies of this Code shall be available for public reference and inspection in the office of the City Clerk and/or such other location(s) as the City Council may direct.